

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: SHOP-VAC MARKETING AND SALES PRACTICES LITIGATION	:	MDL No. 2380
	:	Civil Action No. 4:12-md-2380
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THIS DOCUMENT RELATES TO:	:	(Chief Judge Kane)
	:	
ALL CASES	:	

CASE MANAGEMENT ORDER 5
RE: RESPONSIBILITIES OF COUNSEL AND
CASE MANAGEMENT DEADLINES

NOW, on this 17th day of January 2013, **IT IS HEREBY ORDERED THAT** the Milberg Group's motion for appointment as interim class counsel (Doc. No. 11) is **GRANTED**.

IT IS FURTHER ORDERED THAT:

1. **Appointment of interim counsel.**
 - A. The law firms of Milberg LLP, Lax LLP, and Faruqi & Faruqi LLP are hereby appointed as Plaintiffs' interim class counsel.
 - B. The law firm of Dilworth Paxson LLP is hereby appointed as Plaintiffs' interim liaison counsel.
 - C. The law firms of Milberg LLP, Lax LLP, Faruqi & Faruqi LLP, Lite DePalma Greenberg LLC, Baron & Herskowitz, Reese Richman LLP, and PinilisHalpern LLP are hereby appointed as Plaintiffs' interim executive committee members.
2. **Responsibilities of counsel.**
 - A. **Duties of interim class counsel.** Plaintiffs' interim class counsel shall be generally responsible for coordinating the activities of Plaintiffs during pretrial proceedings, and shall:
 - i. Determine (after consultation with other members of Plaintiffs' executive committee and other co-counsel as may be appropriate) and present (in briefs, oral argument, or such other fashion as may be appropriate, personally or by a designee) to the Court and opposing parties the position of the Plaintiffs on all matters arising during pretrial proceedings.

- ii. Coordinate the initiation and conduct of discovery on behalf of Plaintiffs consistent with the requirements of Fed. R. Civ. P. 26(b)(1), 26(b)(2), and 26(g), including the preparation of joint interrogatories and requests for production of documents and the examination of witnesses in depositions.
- iv. Coordinate the selection and preparation of expert witnesses for Plaintiffs.
- v. Negotiate and enter into stipulations with opposing counsel as necessary throughout the litigation, including discovery, mediation, and settlement negotiations.
- vi. Delegate specific tasks to other counsel and appoint such informal committees of counsel as necessary to ensure that pretrial preparation for Plaintiffs is conducted efficiently and effectively.
- vii. Prepare and distribute periodic status reports to the parties.
- viii. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary expenditures of time and funds are avoided.
- ix. Perform such other duties as may be incidental to proper coordination of Plaintiffs' activities or authorized by further order of the Court.

B. **Interim liaison counsel.** Plaintiffs' interim liaison counsel shall:

- i. Maintain and distribute to co-counsel and to Defendants' counsel an up-to-date service list.
- ii. Receive and distribute to co-counsel orders from the Court and documents from Defendants, except for files that are issued via ECF.
- iii. Maintain and make available to co-counsel a complete file of all documents served by or upon each party.
- iv. Establish and maintain a document depository.
- v. Communicate with the Court on behalf of Plaintiffs concerning scheduling and other administrative matters.

C. **Interim executive committee members.** Plaintiffs' interim executive committee shall consult from time to time with lead counsel regarding pretrial activities and trial preparation. The executive committee may perform any other function assigned by interim class counsel.

3. **Preservation of privileges.** No communication among Plaintiffs' counsel or among Defendants' counsel shall be construed as a waiver of any privilege or protection to which they would otherwise be entitled.
4. **Case management schedule.** The following deadlines shall apply in this case:
 - A. **Consolidated amended complaint.** The consolidated amended complaint (CAC) shall be filed within 30 days of the date of this order.
 - B. **Response to CAC.** Defendants must respond, move or otherwise respond to the CAC within 30 days after service of the CAC. Plaintiffs shall respond to any motions to dismiss within 30 days.
 - C. **Proposed protective order.** The proposed protective order shall be filed within 60 days of the date of this order.
5. **Case management conference.** The Clerk of Court is directed to confer with counsel for Defendants and interim liaison counsel for Plaintiffs to schedule a second case management conference, at which the Court will set the remaining case management deadlines.
6. **Proposed orders.** All proposed orders submitted to the Court should be entitled "Pretrial Order No. ____."
7. **Proposed stipulations.** All proposed stipulations submitted to this Court should be entitled "Stipulation No. ____."

S/ Yvette Kane
Chief Judge Yvette Kane
United States District Court
Middle District of Pennsylvania